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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,402	09/10/2003	Eric G. Lott	LOTA101	5840
7590	01/13/2006		EXAMINER	
FRANK J. DYKAS DYKAS, SHAVER & NIPPER, LLP P.O. Box 877 Boise, ID 83701-0877			HORTON, YVONNE MICHELE	
			ART UNIT	PAPER NUMBER
			3635	
DATE MAILED: 01/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/660,402	LOTT, ERIC G.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Yvonne M. Horton	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 August 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5, 10, 11 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5, 10, 11 and 13-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1,3 and 4 stand rejected under 35 U.S.C. 102(b) as being anticipated by Taraba et al. US patent # 5,701,708. Taraba discloses the claimed invention an engineered lumber stud (figure 2) .comprising a first skin piece (28) positioned generally parallel to a second skin piece (300), said first and second skin pieces attaching to and interconnected by a foam core piece (56) positioned there-between (column 3, lines 44-46), at least one of said first and second skin pieces (28,30) is comprised of a lumber panel (column 3, lines 40-41) and oriented strand board (column 3, lines 40-42) and form a channel (as at 32) to receive a top/bottom plate (58,60).

Claims 1,10 and 11stand rejected under 35 U.S.C. 1O2(b) as being anticipated by Henley et al., US patent # 4,852,310. Henley discloses the claimed invention an engineered lumber stud (figure 24) comprising a first skin piece (63) positioned generally parallel to a second skin piece (65), said first and second skin pieces attaching to and interconnected by a foam core piece (67) positioned there-between (column 7, lines 26-31); the stud defines a channel defined by the first skin piece and the second skin piece and the foam core (where 61 points to); the channel configured to receive at least one top (at 54) and bottom (at 90) plate or spacer (at 71 ). Regarding claims 10 and 11, Henley further discloses a wall panel (figure 24) comprising a plurality of spatially positioned, generally parallel lumber studs (at 63 and

69); each of the studs define a first and second channel within the top and bottom portions of the stud (at 61 and where 90 lies) defined by first and second skins (63, 65) and foam core (67).

Claims 13-16 stand rejected under 35 U.S.C. 102(b) as being anticipated by Aizawa, US patent # 4,044,182. Aizawa discloses the claimed invention a method of building an lumber stud comprising the steps of creating a panel body (A), making a plurality of cuts through first and second skins (column 4, lines 65-68).

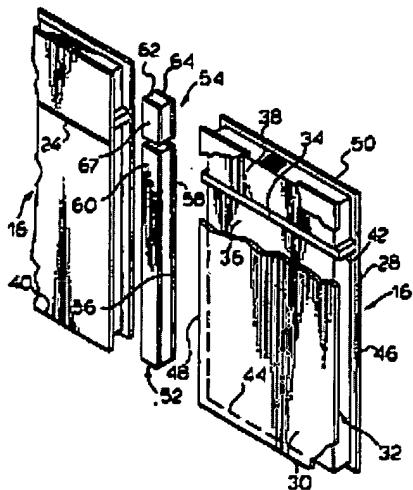
Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Taraba et al. US patent # 5,701,708. Taraba discloses the claimed invention an engineered lumber stud (figure 2) .comprising a first skin piece (28) positioned generally parallel to a second skin piece (300), said first and second skin pieces attaching to and interconnected by a foam core piece (56) positioned there-between (column 3, lines 44-46), at least one of said first and second skin pieces (28,30) is comprised of a lumber panel (column 3, lines 40-41) and oriented strand board (column 3, lines 40-42) and form a channel (as at 32) to receive a top/bottom plate (58,60).

### ***Claim Rejections - 35 USC § 103***

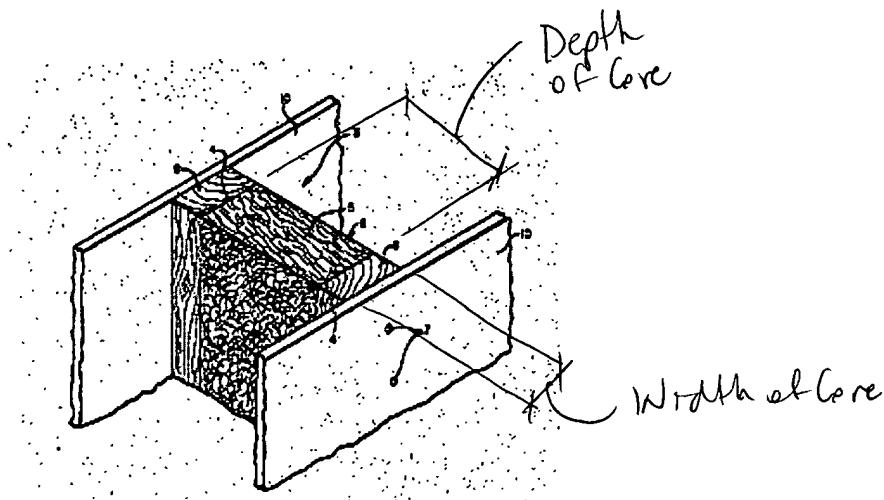
The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 2 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Taraba et al in view of Petersen, US Patent # 4,224,774. Taraba discloses the claimed invention as stated above in claim 1, including the first and second skin pieces define a

width and the foam core piece defines a depth (see figure below). Taraba does not disclose the depth being greater than the width.



Petersen teaches that it is known in the art to provide an engineered lumber stud (3) with a first and second skin (8 and 9) of lumber (column 2, lines 41-42) with a foam core piece positioned therebetween (5, 6) and that the depth of the foam is greater than the width of the skins (see figure on next page). It would have been obvious to one having ordinary skill in the ad at the time the invention was made to provide the dimensions of core and skins as taught by Petersen with the stud of Taraba in order to increase the depth of the walls of the wooden frame buildings (column 1, lines 54-56).



Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taraba et al in view of Henley, US Patent # 4,852,310. Taraba discloses the claimed invention as stated above in claim 1, except for the foam core comprises expanded polystyrene foam. Henley teaches that it is known in the art to provide a foam core (66 - figure 2b) to comprise expanded polystyrene. It would have been obvious at the time the invention was made to provide the polystyrene foam core as taught by Henley with the foam core of Taraba in order to provide a more dense type of foam (column 6, lines 11-12) which would ultimately provide a more heavily insulated wall structure.

#### ***Response to Arguments***

Applicant's arguments filed 8/01/05 have been fully considered but they are not persuasive.

Regarding the applicant's argument that Taraba does not show a channel for receiving either a top or a bottom plate, the applicant should know that the claim is directed to a stud. The stud is "for" use with a top or bottom plate. Thus, the top or bottom plates are not being positively claimed and the stud merely has to be capable of

receiving a top or bottom plate. At any rate, Taraba, as detailed above shows a top/bottom plate (58,60).

In reference to the applicant's argument that Henley does not teach studs, Henley appears to show almost exactly what is shown by the applicant. Without any further detail, clearly the studs of Henley meet the claim limitations.

Regarding the argument that Taraba does not teach a pair of ends, this is not claimed; however, Taraba does teach a first or a top end and a second or a bottom end.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

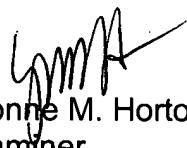
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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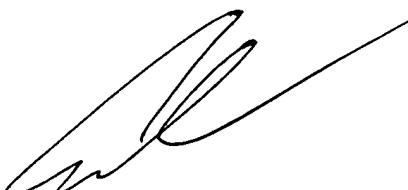
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne M. Horton  
Examiner  
Art Unit 3635



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600